

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 3535FAR/WAS:ldl	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. PCT/AU99/00840	International Filing Date (day/month/year) 29 September 1999	Priority Date (day/month/year) 16 December 1998
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A61C 7/36 A61F 5/01 A63B 71/10		
Applicant FARRELL, Christopher John		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 3 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 8 sheet(s).</p>																
<p>3. This report contains indications relating to the following items:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">I</td> <td><input checked="" type="checkbox"/> Basis of the report</td> </tr> <tr> <td>II</td> <td><input type="checkbox"/> Priority</td> </tr> <tr> <td>III</td> <td><input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td>IV</td> <td><input type="checkbox"/> Lack of unity of invention</td> </tr> <tr> <td>V</td> <td><input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td>VI</td> <td><input type="checkbox"/> Certain documents cited</td> </tr> <tr> <td>VII</td> <td><input type="checkbox"/> Certain defects in the international application</td> </tr> <tr> <td>VIII</td> <td><input type="checkbox"/> Certain observations on the international application</td> </tr> </table>	I	<input checked="" type="checkbox"/> Basis of the report	II	<input type="checkbox"/> Priority	III	<input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	IV	<input type="checkbox"/> Lack of unity of invention	V	<input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	VI	<input type="checkbox"/> Certain documents cited	VII	<input type="checkbox"/> Certain defects in the international application	VIII	<input type="checkbox"/> Certain observations on the international application
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Date of submission of the demand 23 May 2000	Date of completion of the report 20 March 2001
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  DAVID MELHUISH Telephone No. (02) 6283 2426

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU99/00840

I. Basis of the report

1. With regard to the elements of the international application:*

the international application as originally filed.

the description, pages 1, 7 - 12, as originally filed,
pages , filed with the demand,
pages 2 - 6, received on 1 March 2001 with the letter of 1 March 2001

the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages 13 - 15, received on 1 March 2001 with the letter of 1 March 2001

the drawings, pages 1/11 - 11/11, as originally filed,
pages , filed with the demand,
pages , received on with the letter of

the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
 the language of publication of the international application (under Rule 48.3(b)).
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, was on the basis of the sequence listing:

contained in the international application in written form.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority in written form.
 furnished subsequently to this Authority in computer readable form.
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. The amendments have resulted in the cancellation of:

the description, pages
 the claims, Nos.
 the drawings, sheets/fig.

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU99/00840

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 1 - 16	YES
	Claims	NO
Inventive step (IS)	Claims	YES
	Claims 1 - 16	NO
Industrial applicability (IA)	Claims 1 - 16	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

INVENTIVE STEP (IS) Claims 1-16:

D1 - CA 2024799 A

The present invention relates to an oral appliance comprising a base member with a layer of thermoplastic material thereon which can be moulded to suit the teeth of a user. It overcomes the problem of a lack of bonding between the base member and the thermoplastic layer by encasing the base member with the thermoplastic layer, thus mechanically locking the two together.

D1 addresses the same problem also by mechanically interlocking the base member and the thermoplastic layer. See figure 9 of D1, in which body 22 is covered by integral thermoplastic layers 24 and 26 that join via integral connection 60. The thermoplastic layer covers a substantial portion of the base member, but it does not "encompass" it. However it is considered that extending the thermoplastic material so that it covers the whole surface of the base member to provide a better interlocking between the base member and the thermoplastic material would be within the knowledge of a person skilled in the art. A person skilled in the art would proceed to this result by routine non-inventive steps. The features of claims 2 to 16 are also disclosed by D1. Therefore claims 1 to 16 lack an inventive step.